

ROBERT F. HORAN, JR
Commonwealth's Attorney

Filed in the Clerk's Office
the 22 day of October, 2003
TESTED: LILLIE M. HARR, CLERK 2:55pm
By BM D.C.

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

COMMONWEALTH OF VIRGINIA)	
)	
v.)	CR 03-3089, CR03-3090 & CR03-3091
)	
LEE BOYD MALVO)	

MOTION TO CONTINUE

Comes now the Commonwealth with a request that the court continue the trial of this case to a date later than December 10, 2003 and as its grounds therefore states as follows:

1. On October 9, 2003 after 3 p.m., the defense provided the Commonwealth with notice that they will present an insanity defense at the upcoming trial.
2. On October 17, 2003 the defense provided a copy of the report of their expert Dr. Neil Blumberg on the issue of insanity.
3. From reports in the press it appears that Dr. Blumberg is an expert being paid by the defense, and according to his report, he has examined the defendant more than twenty times commencing November 25, 2002.
4. Dr. Blumberg had available 14 neuropsychological test performed by David Schretlen, Ph.D. on August 2, 2003 along with testing done by the court appointed expert Dewey Cornell.
5. Counsel asked this court to authorize payment of up to 300 hours for the services of Dewey Cornell, Ph.D. Presumably his evaluation required more than 36 eight hour workdays to complete.
6. It is not known the total hours needed for Dr. Blumberg to complete his evaluation but it is known that he had already spent more than 10 hours evaluating the defendant as of December 19, 2002. When in the year 2003, Blumberg

determined that the defendant did not know what he was doing when he shot Linda Franklin in the head (or if he did know he didn't know it was wrong) is unknown.

7. The expert requested by the Commonwealth has two court appearances scheduled for the week of October 27 and he will be out of the Commonwealth from November 1, 2003 to November 3, 2003.

8. The expert requested by the Commonwealth, Evan Nelson Ph.D., asks that he be given at least thirty days from November 10, 2003 to conduct his evaluation and prepare his report to the court and counsel for the defendant.

In light of the substantial evaluation time taken by the defense, the voluminous records to review, the numerous tests to analyze and evaluate, and the time necessary to conduct a thorough clinical examination of the defendant, the Commonwealth asks this court to continue this case until at least December 10, 2003.

Respectfully submitted,

ROBERT F. HORAN, JR
Commonwealth's Attorney

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Continue was mailed, postage prepaid, and faxed to Michael Arif, Counsel for Defendant, 8001 Braddock Road, # 105, Springfield, Virginia 22151 and Craig Cooley, Counsel for the Defendant, 3000 Idlewood Avenue, P.O. Box 7268, Richmond, Virginia 23221 this 22nd day of October, 2003.

ROBERT F. HORAN, JR
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